

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Mario Ramos Hinojos, Jr.,)	C/A No. 2:14-1800-JFA-WWD
)	
Plaintiff,)	
)	
v.)	ORDER
)	
State of South Carolina; Nikki R. Haley,)	
Governor; E. Dee Dee Bowers, Admin. Asst.;)	
Cheron M. Hess, Admin. Asst.; Bryan P.)	
Stirling Director; Anna Hallman, Chief IGB;)	
Willie Davis, Deputy Warden;)	
Mr. Commander, Captain; Mr. Buterbaugh,)	
Lieutenant; Michael McCall, Warden;)	
Mr. Richardson, Lieutenant; Mrs. Gibbs,)	
Sargeant; Mrs. Cain, Officer; Mrs. Johnson,)	
Officer; Mr. Sheffield, Officer;)	
Mrs. Patterson, DHO; Mr. Williams,)	
Counselor Sub; Unknown Nurse; and SCDC,)	
)	
Defendants.)	
)	

The *pro se* plaintiff, Mario Ramos Hinojos, is an inmate at the South Carolina Department of Corrections (SCDC). He brings this action pursuant to 42 U.S.C. § 1983 contending that the defendants violated his constitutional rights in connection with chemical munitions used on the plaintiff. He also raises various claims relating to the conditions of his confinement and a prison disciplinary hearing.

The Magistrate Judge assigned to this action¹ has prepared a Report and

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews*

Recommendation and opines that defendants SCDC, State of South Carolina, Governor Haley, and Director Stirling should be summarily dismissed from this action. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The plaintiff was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on August 6, 2014. The plaintiff filed timely objections. He contends that the Magistrate Judge has misconstrued his claims against Haley and Shirley, noting that they are directly responsible for SCDC agency policies and that they are discriminating against him because he is serving a life sentence. He also contends that “it is not that plaintiff does not receive good time credits, but that he does not get a transcript of the disciplinary hearing to properly appeal due to the fact that he does not receive good time.” He requests that the policy be changed to accord with due process and equal protection.

As an initial matter, the Magistrate Judge properly concludes that defendants SCDC and State of South Carolina are immune from suit under the Eleventh Amendment to the United States Constitution. The Magistrate Judge also correctly opines that defendants Stirling and Haley are subject to summary dismissal because vicarious liability is inapplicable to suits under 42 U.S.C. § 1983.

v. Weber, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b)(1).

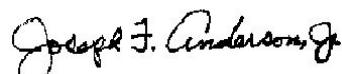
The court has conducted a *de novo* review of the plaintiff's objections and finds no basis for disturbing the Magistrate Judge recommended disposition.

After carefully reviewing the applicable laws, the record in this case, the Report and Recommendation, and the plaintiff's objections thereto, this court finds that the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. The Report is adopted and incorporated herein by reference.

Accordingly, defendants SCDC, State of South Carolina, Governor Nikki R. Haley, and Director Bryan P. Stirling are dismissed from this action without prejudice and without issuance and service of process.

The Clerk is directed to return this action to the Magistrate Judge for further proceedings on the remaining defendants.

IT IS SO ORDERED.



Joseph F. Anderson, Jr.
United States District Judge

October 20, 2014
Columbia, South Carolina